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Attorneys for Defendant TA Operating LLC

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

GLENN OBST, an individual,

Plaintiff,

v.

TA OPERATING LLC dba TRAVELCENTERS OF
AMERICA,

Defendant.

Case No. 3:20-cv-00173

**DEFENDANT TA OPERATING LLC
dba TRAVELCENTERS OF
AMERICA NOTICE OF REMOVAL**

NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant TA Operating LLC dba TravelCenters of America (“TA Operating”), by its counsel GORDON REES SCULLY MANSUKHANI LLP, hereby gives notice of removal of the above action, entitled *Glenn Obst v. TA Operating LLC dba TravelCenters of America*, bearing Case No. 19CV55823, from the Circuit Court of the State of Oregon, County of Multnomah, to the United States District Court for the District of Oregon. Pursuant to 28 U.S.C. §1446(a), TA Operating provides the following statement of the grounds for removal:

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I. PROCEDURAL BACKGROUND

1. The removed case is a civil action commenced in the Circuit Court of the State of Oregon, County of Multnomah by Plaintiff Glenn Obst against TA Operating, entitled *Glenn Obst v. TA Operating LLC dba TravelCenters of America*, Case No. 19CV55823 (the “State Action”). TA Operating is the only named defendant.

2. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders for the State Action in TA Operating’s possession are contained in Exhibits 1-2 filed herewith.

3. Plaintiffs filed the State Action on December 26, 2019, asserting a negligence claim against TA Operating. Declaration of Julie B. Haddon in Support of Notice of Removal, Exhibit 1 (Complaint).

II. VENUE AND JURISDICTION

4. Pursuant to 28 U.S.C. §§115, 1391, 1441(a), and 1446(a), venue lies with this Court because Plaintiff’s action is pending in the Circuit Court of the State of Oregon for the County of Multnomah, which is within this District and Division.

5. This Court has subject matter jurisdiction under 28 U.S.C. §1332(a) because (1) there is complete diversity of citizenship between Plaintiff and TA Operating; (2) the amount in controversy exceeds \$75,000, exclusive of costs and interest; and (3) all other requirements for removal have been satisfied.

A. THERE IS COMPLETE DIVERSITY BETWEEN PLAINTIFF AND THE SOLE DEFENDANT

6. There is complete diversity of citizenship because Plaintiff is a California citizen and the sole defendant in this action, TA Operating, is a citizen of Delaware, Maryland, and Ohio.

7. An individual’s citizenship is determined by his or her domicile, *i.e.* his or her permanent home. *Kanter v. Warner-Lambert Co.* 265 F.3d 853, 857 (9th Cir. 2001).

8. Plaintiff, an individual, is a citizen of the State of California. *See* Haddon Decl., Exhibit 1 at ¶1.

9. The citizenship of a limited liability company is the citizenship of all of its members. *See Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006).

10. TA Operating is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in the State of Ohio. Haddon Decl., Exhibit 1 at ¶1; *see also* Haddon Decl., Exhibit 3. The sole member of TA Operating is TravelCenters of America Inc. TravelCenters of America Inc. is a corporation organized and existing under the laws of the State of Maryland with its principal place of business in the State of Ohio. *See* Haddon Decl., Exhibit 4. TA Operating is thus a citizen of the States of Delaware, Maryland, and Ohio.

B. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

11. Plaintiff's Complaint seeks \$201,002.66 in damages. Haddon Decl., Exhibit 1. Pursuant to 28 U.S.C. § 1332(a), this Court has original jurisdiction over this action because the matter in controversy exceeds the sum or value of \$75,000, exclusive of costs and interest.

C. ALL OTHER REMOVAL REQUIREMENTS ARE SATISFIED

12. This Notice of Removal is timely because TA Operating is filing it within 30 days after the Complaint was served on TA Operating. 28 U.S.C. § 1446(b)(1), (2); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354-56 (1999). Pursuant to 28 U.S.C. § 1446(b)(2)(B), "[e]ach defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons...to file the notice of removal." TA Operating was served on January 3, 2020. Haddon Decl., Exhibit 2 (Proof of Service). This Notice of Removal is being served within 30 days of service on TA Operating. This Notice of Removal is therefore timely filed.

13. TA Operating is the sole defendant named in this action. Therefore, there are no other defendants that need to consent to the removal.

14. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal will be filed with the Circuit Court of the State of Oregon, County of Multnomah promptly after filing of same in this Court.

15. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice of Removal will be given to all adverse parties promptly after the filing of same in this Court.

16. If any question arises as to the propriety of the removal of this action, TA Operating requests the opportunity to conduct discovery, brief any disputed issues and to present oral argument in favor of its position that this case is properly removable.

17. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of TA Operating's right to assert defenses including, without limitation, the defenses of (i) lack of jurisdiction over person, (ii) improper venue and/or *forum non conveniens*, (iii) insufficiency of process, (iv) insufficiency of service of process, (v) improper joinder of claims and/or parties, (vi) failure to state a claim, (vii) failure to join indispensable party(ies), or (viii) any other procedural or substantive defense available under state or federal law.

III. CONCLUSION

18. Consequently, the State Action may be removed to this Court by TA Operating in accordance with the provisions of 28 U.S.C. § 1441 because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the District of Oregon; (ii) the action is between citizens of different states; and (iii) the amount in controversy exceeds \$75,000.00.

DATED this 31st day of January, 2020.

**GORDON REES SCULLY
MANSUKHANI, LLP**

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 2020, a true and correct copy of the foregoing document, which was filed with the Court through the CM/ECF system, will be sent electronically to all registered participants as identified on the Notice of Electronic Filing. Additionally, on January 31, 2020, true and correct copies of the foregoing document will be served as follows:

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